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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,487	11/09/2001	Tatsuo Fujisaki	839.450	5285

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EXAMINER	
MUTSCHLER, BRIAN L	

ART UNIT	PAPER NUMBER
1753	

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/986,487	FUJISAKI ET AL.	
	Examiner	Art Unit	
	Brian L. Mutschler	1753	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on *14 October 2003*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-3 and 5-7*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The instant claims are not distinguished over the prior art of record. Applicant has argued that Johnson teaches a method of controlling using only the current temperature. While Johnson does use the current temperature to control the temperature of the device, the current temperature alone is not sufficient to control the temperature of the device. Johnson uses a monitor to control the flow rate of the cooling fluid. In order to use the current temperature, the temperature must be compared to some value. If no comparison is made, the flow rate would never be changed because the temperature monitor would function only as a thermometer and serve no control function, which is contrary to the teaching of Johnson. Therefore, the current temperature must be used in comparison to achieve the desired flow control. The solar power generating system of Johnson teaches all of the structural limitations recited in the instant claims, i.e., the device of Johnson has both timing functions (as indicated by the microprocessor controlling the tracking process) and memory functions (the current temperature is used to control the cooling flow rate). Both temperature and electrical output are proportional to the amount of light incident on the solar cells. Johnson teaches the control of cooling by monitoring the temperature. Mimura et al. and Guha et al. also teach monitoring the amount of radiation, which is proportional to heat, by monitoring the output current. Therefore, Johnson, Mimura, and Guha teach means to measure the amount of radiation incident upon the cell through the effect of the radiation. A temperature value has no structural significance other than a means to store such a value. Johnson teaches a microprocessor controller having a control algorithm, which inherently comprises memory means capable of storing values. Since there is no structural difference between the instant claims and the prior art of record, the rejection is deemed to be proper.

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TECHNOLOGY CENTER 1700